

The 12 Best Practices in CONTRACT MANAGEMENT

PASA Webinar
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Jonathan Dutton
Interim Sales & marketing Director
Open Windows



Introduction

Jonathan Dutton FCIPS

Interim Sales & Marketing Director

Open Windows

Jonathan Dutton was founding managing director of CIPSA, the peak body for procurement in the region. Since leaving CIPSA in 2013, Jonathan has worked as an independent management consultant. He started his career in procurement at British Airways before moving into a corporate sales role for BA in London, and then for QANTAS in Sydney. Jonathan is currently working on several projects as well as Interim Sales and Marketing Director for Open Windows based in Melbourne.



INTRODUCTION

Open Windows

- **Established 1994** - *and lived the IT development curve over the last 20 years*
- **Founded by brothers Adam & Shane McInnes** - *Adam is CEO of SOFTWARE business*
- **100% Australian owned and operated** – *with Aussie service & local responsiveness*
- **Almost 100 staff** – *including developers, IT professionals, Service & testing teams*
- **Chaired by Hon Jeff Kennett AC** – *former Premier of Victoria & President Hawthorn*
- **High R&D investment** – *plus 6,000 hours testing of all new releases for bug-free s/w*
- **MICROSOFT development partner** – *built on MS platforms for OFFICE compatibility*
- **Baked in procurement process** – *for relevance, probity, audit trails & online security*
- **Open Windows IDENTITY** – *multi system staff/supplier access & identity control*
- **Melbourne Head office** – *but team members in Sydney, Perth, Canberra, Hobart*


Microsoft Partner

Gold Application Development
Gold Identity and Access



INTRODUCTION

The Open Windows technology

- MODULAR procurement systems are also flexible
- Cloud based SaaS ... or On-Premise private server platform
- Fully integrated with all leading ERP and P2P systems
- eAlerts technology ... to never miss a deadline
- Single DATA entry technology, across all modules
- Highly secure systems with supreme data confidentiality
- Quarterly new release cycles ... ten hour service line 
- Can include both eTenderBox™ and RAPIDQuote apps
- *Modular Procurement Systems*

BUY what you need, NOTHING you don't

NINE unique modules

CATEGORIES
PROJECTS
SOURCING
TENDERS
PROCESSES
CONTRACTS
COMPLIANCE
BUDGETS
SRM

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The Open Windows

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- *Modular Procurement*
BUY what you need



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- PROJECTS
- SOURCING
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- CONTRACTS
- COMPLIANCE
- BUDGETS
- SRM

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INTRODUCTION

Contract Management

- Top THREE issue in PROCUREMENT for over a decade
- Benefit & utility start when the contract is signed
- Visibility on delivery and business benefits are key
- Direct supplier input ... for reporting & compliance
- An organisation's style of CM can be distinctive
 - *The difference between success and failure*



**CONTRACT
MANAGEMENT**
Where the “rubber hits the road”

DELIVERY

SCHEDULE

PROJECT MGT

COMPLIANCE

RELATIONSHIPS

INNOVATION

BUDGET

BENEFITS

Dr Sara Cullen

scullen@cullengroup.com.au



THE CULLENGROUP



• Positions

- Managing Director, The Cullen Group
- Fellow, Melbourne University
- Research Associate, London School of Economics
- Former National Partner, Deloitte

• Education & Qualifications

- PhD (Contracts)
- Masters of Management
- BSc (Accounting) - US
- Chartered Accountant (US)
- Certified Mediator

• Services

- **Consulting**
 - Buyers & sellers; gov't & commercial
 - 145 orgs; 52 countries; \$18B contract value
 - 7 government reviews as independent expert
- **Publications**
 - 135 best practice & research publications
- **Education programs**
 - University (post-grad)
 - Corporate programs - 5200+ managers representing 750 organisations

open windows software
m o d u l a r p r o c u r e m e n t

Head Office: 635 Glenferrie Road, Hawthorn VIC 3122, Australia
P. **1300 73 90 73** E. **info@openwindows.com.au** **openwindows.com.au**

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Melbourne | Sydney | Perth | Canberra

The 12 Best Practices in Contract Management

The future of procurement -
driving downstream benefit realisation



Dr. Sara Cullen

scullen@cullengroup.com.au

WHITE PAPER

open windows software

modular procurement

Dr Sara Cullen, University of Melbourne

THE CULLENGROUP

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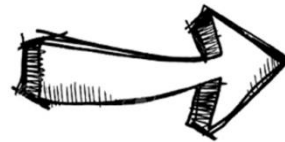
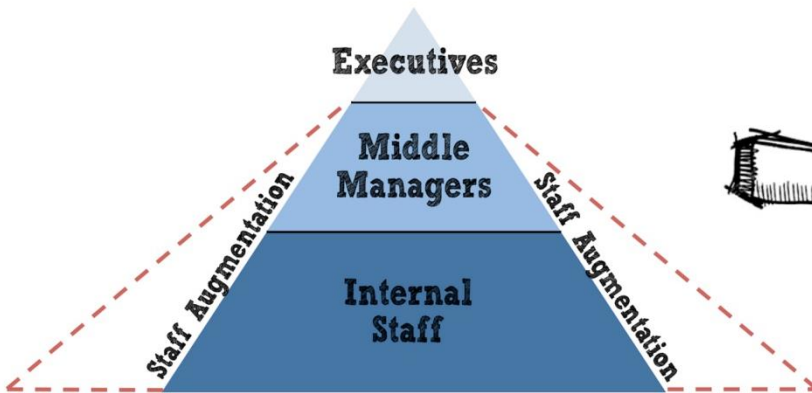


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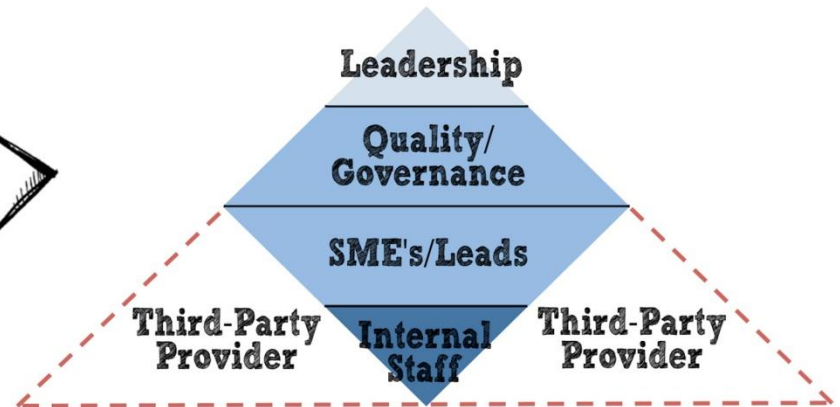
Why the white paper?

The modern organisation is changing

FROM A PYRAMID



TO A DIAMOND



Procurement is changing as well



- Rising above transactional work (which is becoming automated) into **strategic sourcing**
- Becoming a deeply informed buyer through **category management** – leading total lifecycle management
- Ensuring benefit realisation through **contract management** ✓

Why contract management matters



- Failures make headlines
 - In the wake of the prisoner tagging scandal, the NAO UK assessed 73 contracts
 - 5 sent to police or Serious Fraud Office
 - 59% of U.K contract management areas were weak; 12.5% were a material risk
 - After the Qld Health payroll scandal, in 2013 Qld gov't audit of 62 contracts (Safety, Works, Transport)
 - 76% not monitored
 - 68% worth over \$1m had no contract management plan
 - 75% not reviewed prior to extension

What is Contract Management?

- *University of Exeter, UK:* **monitoring**
 - performance, commercial aspects, delivery, improvement, complaints and customer satisfaction.
- *Institute of Supply Management:* The management of
 - various facets of a contract to ensure that the **contractor's total performance** is in accordance with the contractual commitments and that obligations to the purchaser are fulfilled.
- *Project Management Assoc:* process ensuring that
 - the **buyer and seller** both perform to the **specifications**.
- *Wiki:* the management of contracts:
 - summarized as the process of systematically and efficiently managing **contract creation, execution, and analysis** for the purpose of maximizing financial and operational performance and minimizing risk
 - includes **negotiating** the T&Cs , ensuring compliance, and documenting and agreeing variations.

The 12 best practices of contract management

Control	Interact	Adapt	Plan
<p>1. Ensure performance - set, review, and monitor KPIs</p> <p>2. Watch over the finances - budgets, billing and payment, total cost of contract, and trends.</p> <p>3. Record keep and report - real-time audit trails and reporting</p> <p>4. Audit compliance - of both parties to contractual documents</p>	<p>5. Invest in the relationship - strong SRM at all levels</p> <p>6. Orchestrate the CM network - of your people to act within the contractual frame-work as a cross-functional team</p> <p>7. Handle disagreements and disputes - prevent and treat internally and not through third parties</p>	<p>8. Gauge issues and risks - ongoing identification, prioritisation, tracking, and resolution</p> <p>9. Manage variations -written, verbal, and behaviour-based (estoppel) variations</p>	<p>10. Forecast demand and supply - business needs and changes, provider capabilities, etc.</p> <p>11. Maintain market intelligence - over your providers and the market as a whole (e.g. prices, technology, market conditions, standards)</p> <p>12. Drive continuous improvement - within both parties and their interfaces</p>

Control



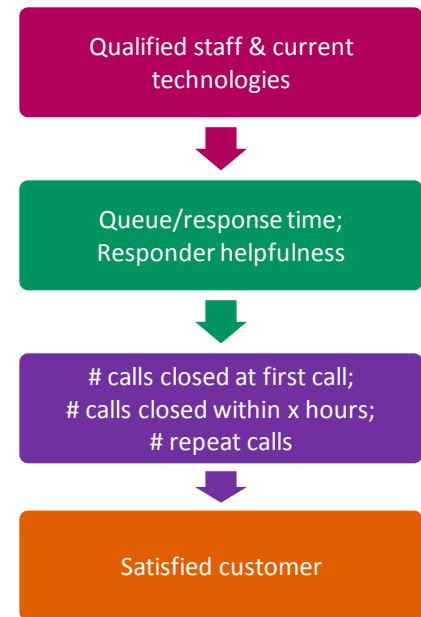
- Getting what you contracted for
- At the price contracted for
- In compliance with the contract
- With an audit trail of events and evidence of reasonable management



1. Performance mgmt

- Not just reviewing a provider's KPI report
- Checking what matters
 - Inputs
 - Human resources - quals, training, reviews, turnover
 - Physical resources - facilities & equip appropriateness, age
 - Processes - speed, accuracy, availability, etc
 - Outputs – productivity of the inputs & processes
 - Outcomes – the results

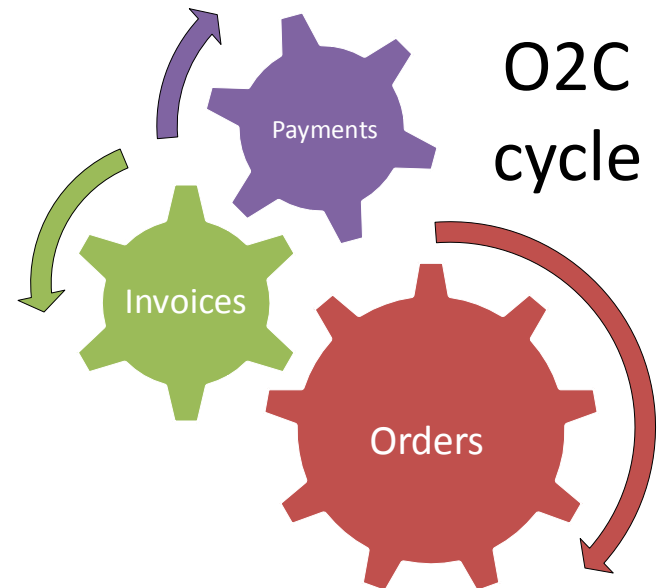
Example: service centre contract



2. Financial mgmt



- Transactional - verifying invoices
- Strategic
 - O2C cycle - for demand-based contracts
 - Total cost of contract
 - Benchmarking
 - Not to “catch the provider out”
 - Find better ways and implement over a period (...or look at switching providers)





3. Document mgmt

- An incredible amount of information required for each contract
 - Intent evidence:
 - RFT, proposals, the contract, and other (business case, negotiation minutes, etc)
 - Pre-operations evidence:
 - Transition plans, acceptance tests, acceptance certificate, etc
 - Operations evidence, just for starters:
 - Approvals and signoffs
 - Correspondence and minutes
 - Finances – invoices, payments, quotes for additional work, etc
 - Reports – performance, reviews, audit, financial, etc
 - Variations
 - Contract closeout
 - SWOT
 - Total cost of contract
 - Closeout acceptance





4. Compliance Audits

- Whatever gets checked is what will be perceived to matter
 - Providers will take your lead
- Not checking can reduce enforceability
 - Contracts are not to be managed at leisure
 - Reasonableness doctrine incorporates not acting capriciously (inconsistent, arbitrary, unpredictable)
- Both parties need to be compliant!
 - What obligations of each party will you confirm has been carried out?
- Opportunity for streamlining contracts
 - If its not worth checking, should it be there?

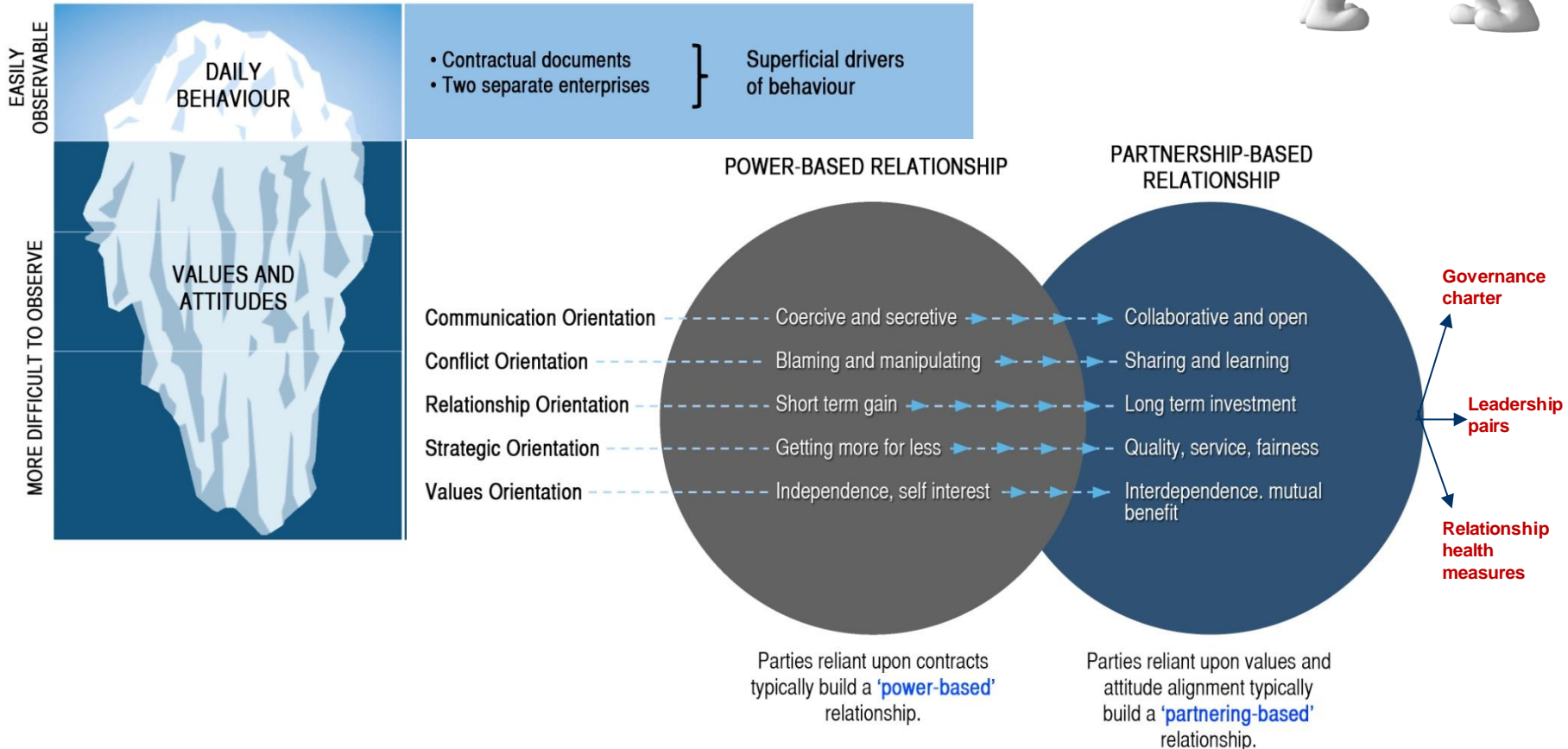
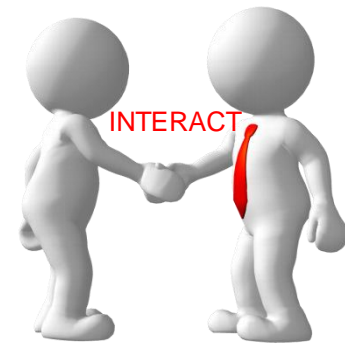
Interact

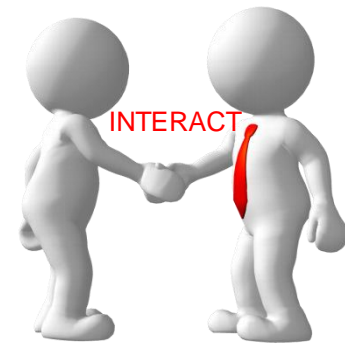


Recognising that contract success is delivered by people

- And each individual has different perspectives, values, goals, methods, etc.

5. Invest in the relationship (SRM)



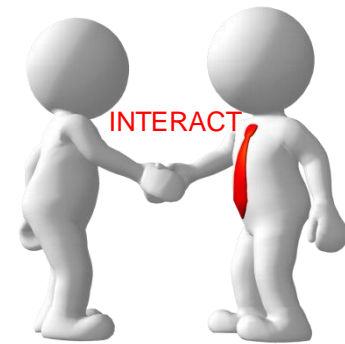


6. Orchestrate the CMN (contract mgmt network)

- Anyone having a touchpoint with a provider



7. Disagreements & disputes



- IAMA study of 400 Australian companies
 - 46% had a dispute
 - 50% cost under \$50k to resolve
 - 32% cost over \$500k to resolve
 - 18% grew to legal action
 - Most arose from mismanagement and poorly drafted contracts
- Prevention is key
 - Clear SoRs, SoWs, SLAs, ToRs, etc.
 - Clear lines of communication
 - Quick issue resolution
- Most important skill is to recognise, reconcile, and align different opinions



Adapt



"An architect's most useful tools are an eraser at the drafting board, and a wrecking bar at the site."

Frank Lloyd Wright



8. Issue & risk mgmt

- Much of what happens in practice won't be what was contemplated in the contract
- Need to evidence and learn from them
 - Log
 - Prioritise
 - Assign to an individual
 - Document resolution





9. Variation management

- Variations are normal and constant
 - Written
 - Consider a form documenting the variation request and agreement
 - Verbal
 - Send email confirming conversations
 - Behaviour-based (estoppel)
 - Determine which is better
 - the behaviour or the contractual documents
 - Change the behaviour or change the document



Plan

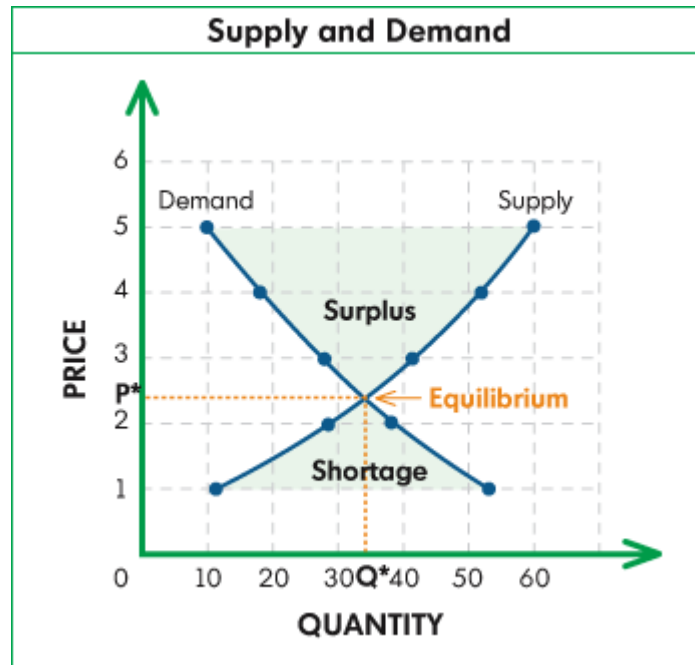


Steering towards the future



10. Forecast demand & supply

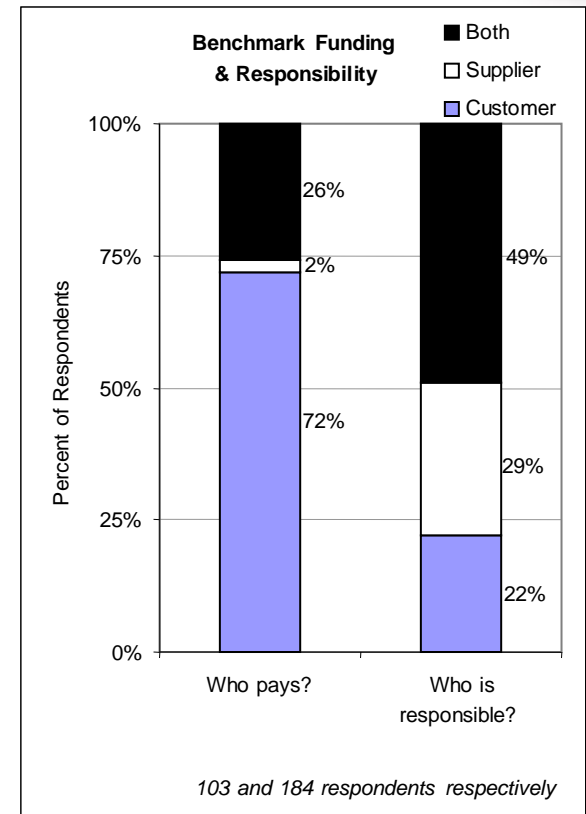
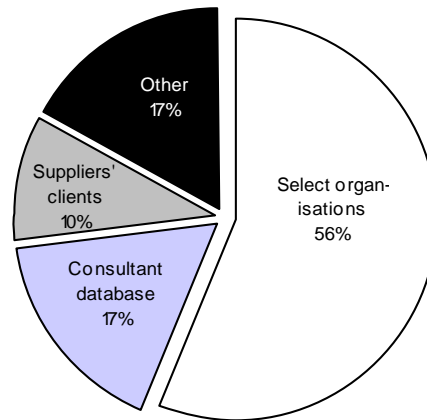
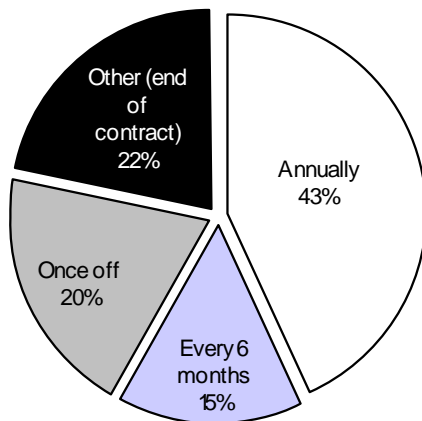
- Demand – predict nature and quantities, but also attack consumption behaviours
- Supply – capacity, product lifecycles, surge periods, hedging prices





11. Market intelligence

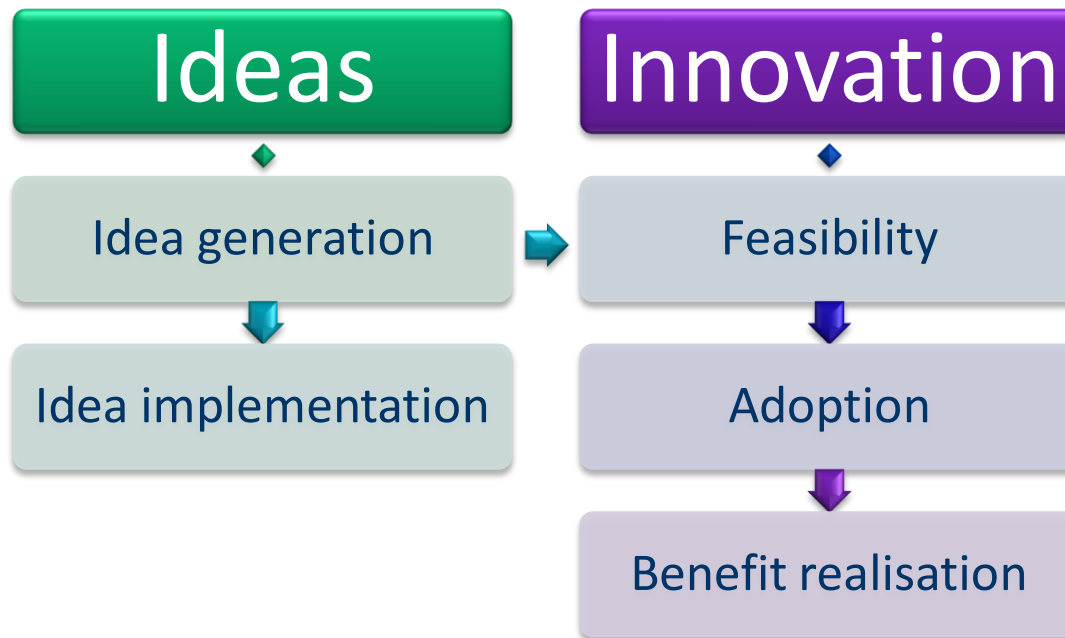
- The original tender was a form of benchmarking.
 - Is that knowledge kept fresh?
 - 49% of Australian organisations say yes (survey of 184)





12. Drive continuous improvement

- Not just a contract clause, a way of working together



How does procurement change when it takes on contract management in a diamond?



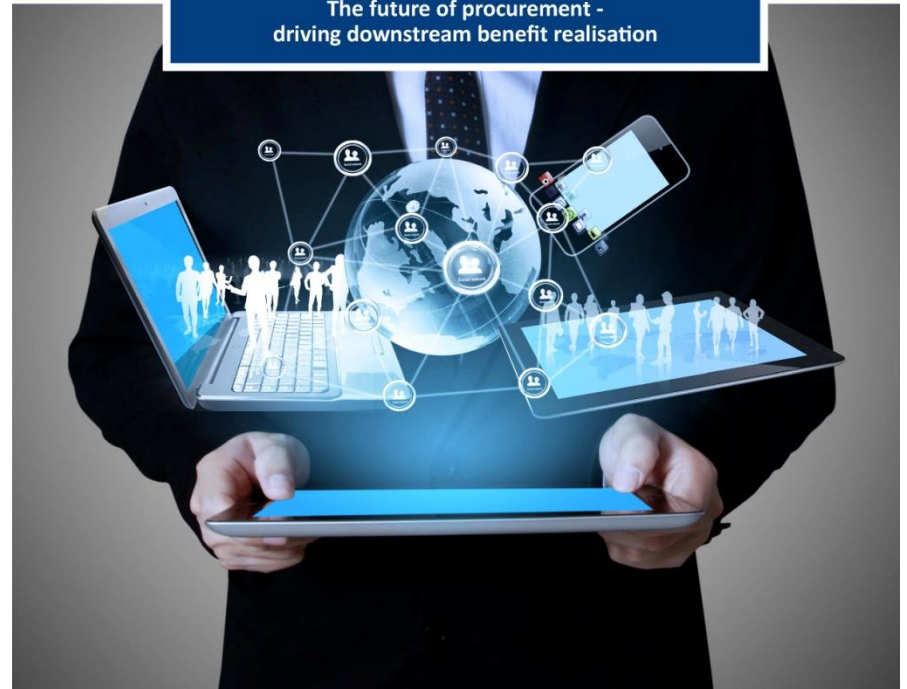
Strategic shifts

- ✓ From processing transactions to
 - ▶ driving contract lifecycles
- ✓ From selecting suppliers to
 - ▶ empowering strategic relationships
- ✓ From putting in place contracts to
 - ▶ achieving realised benefits
- ✓ From a support function at the halfway mark to
 - ▶ a lead function from start to finish

Questions?

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